

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

THE ART INSTITUTE OF PHILADELPHIA  
LLC, *et al.*,<sup>1</sup>

Debtors.

GEORGE L. MILLER, Chapter 7 Trustee,

Plaintiff,

v.

TODD S. NELSON, JOHN R. McKERNAN,  
SAMUEL C. COWLEY, EDWARD WEST,  
MARK A. McEACHEN, FRANK JALUFKA,  
J. DEVITT KRAMER, MARK NOVAD, JOHN  
DANIELSON, AND MICK BEEKHUIZEN,

Defendants.

Chapter 7

Case No. 18-11535 (CTG)

(Jointly Administered)

Adv. No. 20-50627 (CTG)

**MOTION TO DISMISS THE FIRST AMENDED COMPLAINT OF  
DEFENDANTS JOHN DEVITT KRAMER AND MARK NOVAD**

Defendants John Devitt Kramer and Mark Novad (the “Defendants”) hereby move to dismiss (the “Motion to Dismiss”) the First Amended Complaint (Adv. Dkt. 91) (the “FAC”) filed by plaintiff George L. Miller, as trustee for The Art Institute of Philadelphia, et al. (“Trustee”), with prejudice pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, made applicable to this adversary proceeding by Rule 7012(b) of the Federal Rules of Bankruptcy Procedure. In

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<sup>1</sup> Due to the large number of debtors in the above-captioned jointly-administered chapter 7 cases (the “Chapter 7 Cases”), a complete list of such debtors (the “Debtors”) and the last four digits of their federal tax identification numbers is not provided herein. Such information can be found at footnote 1 of the FAC.

support of the Motion to Dismiss, the Defendants incorporate by reference the accompanying memorandum of law (“Opening Brief”), filed contemporaneously herewith.

Pursuant to Rule 7012-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware, the Defendants do not consent to the entry of final judgment by the Court.

WHEREFORE, the Defendants respectfully request that the Court enter an order, substantially in the form attached hereto as **Exhibit A**, dismissing the FAC and granting such other and further relief as the Court deems just and proper.

*[Signature Page Follows]*

Dated: April 1, 2022

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